

MAR 07 2008

Application/Control Number 10/543,085
Examiner: DANG, HUNG XUANREMARKS

Applicant has amended claims 8-9 to overcome the Examiner's objection under 37 C.F.R. 1.75(c). Specifically, both of the claims have been made solely dependent on currently amended claim 1.

Additionally, Applicant has amended claim 1 to include the substance of now canceled claims 2 and 4. Furthermore, claim 3 has been amended to be dependent on amended claim 1. None of the amendments to the claims constitute new matter.

The Examiner has rejected claims 1-3 and 5-9 under 35 U.S.C. §102(b) as being anticipated by *Sunatori* (CA 2,321,318).

Applicant submits that the cited prior art reference fails to disclose all the elements found in the amended claims. Amended claim 1 now recites a frame for eyeglasses possessing a magnetic pin and complementary seat designed to define the axis of rotation.

Sunatori fails to point out a pin and complementary seat that works in conjunction with the magnetic elements of an eyeglass frame. As such, each and every element of amended claim 1 can not be found in the cited prior art. Therefore, the Examiner's rejection of claim 1 under 35 U.S.C. §102(b) is now moot. Additionally, claims 3 and 5-9 are all either directly or indirectly dependent on claim 1. Therefore, the rejection of those claims based under 35 U.S.C. §102(b) is also moot.

The Examiner has rejected claim 4 under 35 U.S.C. §103(a) as being obvious in view of *Sunatori*.

Applicant notes that claim 4 has been canceled. However, the substance of claim 4 has been inserted into amended claim 1. Applicant asserts that claim 1, as amended, points out non-obvious subject matter because it recites a pin and complementary seat design in conjunction with magnetic elements to define the axis of rotation of the hinge device of an eyeglass frame. *Sunatori* is limited merely to the use of magnetic elements that function as a hinge device.

The present invention employs the use of the pin and complementary seat so as to allow a greater degree of rotation of the temple of an eye glass frame. This allows the device

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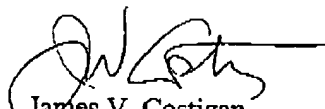
as described in amended claim 1 to effectively resist forcible separation of the temple due to rotational force, as well as allowing the device to accommodate a person with wide physical features. Lastly, the elements of amended claim prevent accidental loss of the temple by securing it magnetically.

Sunatori specifically recites a u-shaped ferromagnetic element (3-3). This element clearly prevents the temple (4-1) from moving beyond a 90° angle as defined by Sunatori in its description of Fig 1. *See* Written Description; Figs. 2-5 of Sunatori. Therefore, if undue pressure is applied to force the temple (4-1) beyond 90°, the result would either be damage to the temple or damage to the U-shaped element of the eyeglass frame. The device as described by amended claim 1 does not suffer this drawback. Mere addition of a pin and seat element would not prevent the temple of the eyeglass frame from being damaged by over rotation. This is due to the presence of the u-shaped element. Furthermore, since Sunatori specifically recites a u-shaped element, it would not be obvious to modify Sunatori so that it does not have a u-shaped element. Therefore, any obvious modification of Sunatori still results in a hinge that is susceptible to over rotation and breakage because it still possesses a U-shaped hinge element. As such, amended claim 1 is not made obvious by the Sunatori patent.

The Examiner stated that the omission of an element and its function is not invention. However, that is not the case with amended claim 1. Amended claim 1 performs a different function than that original claim 1 because it provides a mechanism that allows a much wider axis of rotation which prevents damage to the overall device. For this reason, the omission is not obvious and it is requested that this ground of rejection be withdrawn.

Favorable action is earnestly solicited.

Respectfully Submitted,


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